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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,372	02/15/2002	David Wesley Smith	2001P09661 US01	3678

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EXAMINER
TO, JENNIFER N

ART UNIT	PAPER NUMBER
2195	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/077,372	SMITH, DAVID WESLEY
	Examiner	Art Unit
	Jennifer N. To	2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>*29 July 2005*</u>.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>*1-22*</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>*1-22*</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-22 are presented for examination.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-3, 7-9, and 21 are rejected under 35 U.S.C. 102(b) as being

anticipated by Fleming, III (hereafter Fleming) (U.S. Patent No. 6230204).

4.   As per claim 1, Fleming teaches the invention as claimed including a

system supporting shared access to a plurality of concurrently operating

applications by multiple users associated with one or more entities, a method

performed by a data processor for monitoring individual application utilization,

comprising the steps of (figs. 9-10; abstract, lines 1-5):

maintaining a first record of different users associated with an entity (figs.

9-10; col. 11, lines 30-50);

maintaining a second record of different applications invoked by at least

one of said different users (figs. 9-10; col. 12, lines 29-41);

maintaining a third record of use of an executable program employed by

said different applications invoked by said at least one of said different user, said

record of use supporting allocation of proportionate usage of said program by individual applications of said different applications (figs. 9-10; col. 12, lines51-55); and

employing said first, second and third records for intermittently compiling data identifying operation usage characteristics of individual applications of said different applications by said at least one of said different users associated with said entity in response to a predetermined processing operation event (figs. 9-10; col. 12, lines 56-66).

5. As per claim 2, Fleming teaches that allocating proportion of usage of said executable program between said different applications by determining an estimate of relative duration of use of said executable program by individual applications of said different applications (col. 13, lines 4-29).

6. As per claim 3, Fleming teaches that determining and recording weighting factors associated with individual applications of said different applications, said weighting factors representing an estimate of relative duration of use of said executable program by individual applications of said different applications (col. 3, lines 1-4; col. 13, lines 29-48).

7. As per claim 7, Fleming teaches that maintaining a fourth record associating a processing device with at least one of, (a) a user, (b) an entity and (c) an individual application (fig. 10).

8.   As per claim 8, Fleming teaches that data elements of said second and

third records are dynamically created during a session of operation (col. 2, lines

64-67; col. 3, lines 58-65).

9.   As per claim 9, Fleming teaches that wherein said executable program

employed by said different applications comprises a program providing a function

shared by said different applications (col. 2, lines 60-64; col. 7, lines 10-22; col.

9, lines 30-54).

10.   As per claim 21, this claim is a system claim that corresponds to method

claim 1. Therefore, this claim is rejected with the same reason as method claim

1 above.

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

12.   Claims 4-6, 10-18, and 22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Fleming (U.S. Patent No. 6230204) as applied claim 1 above,

and in view of AIX Version 3.2 (hereafter AIX) ("AIX Version 3.2 – System

Management Guide: Operating System And Devices, Chapter 14 System

Accounting", published October 1st 1993).

13.   AIX was cited in the last office action.

14.   As per claim 4, Fleming teaches the invention substantially as claimed in

claim 1. Fleming did not specifically teaches that intermittently compiling data

identifying at least one of, (a) processor time used by an individual application,

(b) a number of file accesses made by an individual application, and (c) a

number of storage access requests made by an individual application.

15.   However, AIX teaches intermittently compiling data identifying at least one

of, (a) processor time used by an individual application, (b) a number of file

accesses made by an individual application, and (c) a number of storage access

requests made by an individual application (page 14-2, Disk-Usage Accounting,

lines 1-11).

16.   It would have been obvious to one of an ordinary skill in the art at the time

the invention was made to have combined the teaching of Fleming and AIX,

because AIX teaching of intermittently compiling data identifying at least one of,

processor time used by an individual application, a number of file accesses made

by an individual application, and a number of storage access requests made by

an individual application would improved Fleming's system by allowing system

administrator to collect and report on individual and group use of various system resources (AIX, page 14-1, Chapter 14, System Accounting).

17.   As per claim 5, AIX teaches wherein said step of intermittently compiling data comprises compiling data supporting identifying relative operation usage characteristics by an individual application as a proportion of said different applications (page 14-2, Disk-Usage Accounting, lines 1-12).

18.   As per claim 6, AIX teaches wherein said predetermined processing operational event comprises at least one of, (a) a data access request, (b) a storage access request, (c) termination of use of an individual application, (d) termination of a user operation session and (e) a periodically generated command (page 14-1, Collecting and Reporting System Data, lines10-13; page 14-2, Disk-Usage Accounting, lines 10-11).

19.   As per claim 10, AIX teaches wherein said entity comprises at least one of, (a) a customer, (b) a company, (c) an organization and (d) an identifiable group of users (page 14-1, System Accounting, lines 1-2).

20.   As per claim 11, Fleming teaches the invention substantially as claimed including a system supporting shared access to a plurality of concurrently operating applications by multiple users associated with one or more entities, a

method performed by a data processor for monitoring individual application

utilization (figs. 9-10; abstract, lines 1-5), said method comprising the steps of:

during a session of user operation (figs. 3-4),

maintaining a first record of different users associated with an entity(figs.

9-10; col. 11, lines 30-50); and

maintaining a second record of different applications invoked by at least

one of said different users (figs. 9-10; col. 12, lines 29-41).

Fleming did not specifically teach that:

maintaining a third record associating a processing device with said at

least one of said different users; and

employing said first, second and third records for intermittently compiling

data identifying at least one of, (a) processor time used by an individual

application, (b) a number of file accesses made by an individual application, and

(c) a number of storage access requests made by an individual application of

said different applications by said at least one of said different users associated

with said entity in response to a predetermined event.

21.   However, AIX teaches that:

maintaining a third record associating a processing device with said at

least one of said different users (page 14-1, Collecting and Reporting System

Data, lines 10-13; and

employing said first, second and third records for intermittently compiling

data identifying at least one of, (a) processor time used by an individual

application, (b) a number of file accesses made by an individual application, and

(c) a number of storage access requests made by an individual application of

said different applications by said at least one of said different users associated

with said entity in response to a predetermined event (page 14-1, Collecting and

Reporting System Data, lines10-13; page 14-2, Disk-Usage Accounting, lines 10-

11; page 14-3, Process Accounting Report, line 8 through page 14-4, lines 1-4).

22.   It would have been obvious to one of an ordinary skill in the art at the time

the invention was made to have combined the teaching of Fleming and AIX,

because AIX teaching of intermittently compiling data identifying at least one of,

processor time used by an individual application, a number of file accesses made

by an individual application, and a number of storage access requests made by

an individual application would improved Fleming's system by allowing system

administrator to collect and report on individual and group use of various system

resources (AIX, page 14-1, Chapter 14, System Accounting).

23.   As per claim 12, Fleming teaches that maintaining a fourth record for use

in allocating proportionate usage to an individual application of an executable

program shared by a plurality of said different applications (fig. 10).

24.   As per claim 13, it is rejected for the same reason as claim 2.

25.   As per claim 14, Fleming teaches that maintaining a third record includes maintaining a third record associating said processing device with said entity (fig. 10).

26.   As per claim 15, Fleming teaches that wherein said first, second and third records are maintained in at least one of, (a) a single file and (b) a plurality of files (figs. 2, 10).

27.   As per claim 16, AIX teaches wherein said step of intermittently compiling data comprises intermittently compiling data identifying at least one of, (a) size of storage employed by an individual application, (b) a number of input/output requests made by an individual application, and (c) a number of file deletion requests made by an individual application (page 14-2, Disk-Usage Accounting, lines 1-11).

28.   As per claim 17, it is rejected with the same reason as claim 11 above. In addition, Fleming teaches that generating e record based on said compiled data (fig. 10).

29.   As per claim 18, Fleming teaches wherein said step of generating a record comprises generating a record for use adaptively adjusting system characteristics to improve system performance (abstract, lines 1-5).

30.   As per claim 22, it is rejected for the same reason as claim 11 above.

31.   Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable

over AIX Version 3.2 (hereafter AIX) ("AIX Version 3.2 – System Management

Guide: Operating System And Devices, Chapter 14 System Accounting",

published October 1st 1993).

32.   AIX was cited in the last office action.

33.   As per claim 19, AIX teaches the invention substantially as claimed

including the steps of:

user entering a keyboard command for selecting display of image data

representing processor utilization collated by individual application for a plurality

of concurrently operating applications (page 14-2, Process Accounting, lines 1-

11; page 14-6, Keyboard Commands, lines 1-5); and

in response to user commands (page 14-6, Keyboard Commands, line 1),

display of compiled data identifying at least one of, (a) processor time

used by an individual application, (b) a number of file accesses made by an

individual application, and (c) a number of storage access requests made by an

individual application of said plurality of concurrently operating applications (page

14-1, Collecting and Report System Data, lines 1-17; page 14-3, Processing

Accounting Reports, lines 1-8 through page 14-4, lines 1-10; page 14-4, Daily

Reports, lines 1-10; page 14-6, Keyboard Commands, lines 1-31).

AIX did not specifically teach initiating display of a first image including a user selectable item, initiating display of a second image.

34. However, AIX disclosed corresponding to user keyboard command, a display image (process accounting, connection-time, information about previous log in, a session record) is initializing (page 14-6, Keyboard commands, lines 1-31).

35. It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have improved AIX's system by initializing display image wherein a user can look and select an item to further display other information instead of user have to type in a command for display image. Therefore, it would providing more user friendly and flexibility to AIX's system.

36. As per claim 20, AIX teaches the step of deriving said compiled data by intermittently generating data identifying operation usage characteristics of individual applications of said plurality of concurrently operating applications based on accumulated operation data records, said operation usage characteristics being collated for individual users associated with an entity (page 14-2, Disk-Usage Accounting, lines 1-12; page 14-4, Disk-Usage Accounting Report, Daily Reports).

Response to Arguments

37.   Applicant's arguments with respect to claims 1-18, and 21-22 have been

considered but are moot in view of the new ground(s) of rejection.

38.   Applicant's arguments with respect to claims 19-20 have been fully

considered but they are not persuasive.

39.   In the remarks applicant argued:

    a. AIX fail to teach compiling data on "processor utilization colleted by

       individual application for a plurality of concurrently operating

       applications.

    b. AIX fails to teach displaying a second image including specific

       compiled data identifying at least one of processor time used by an

       individual application, a number of files accesses made by an

       individual application, a number of storage requests made by an

       individual application.

    c. AIX fails to teach a second image including the recited data in

       response to user selection of a user "selectable item" for selecting

       display of image data representing processor utilization collated by

       individual application for a plurality of concurrently operating

       applications in a first image.

    d. AIX fails to teach an image menu navigation architecture enables a

       user to optionally examine "processor utilization".

e. AIX fails to teach operational usage.

40.   Examiner respectfully traverses Applicant's remarks:

a.   As to point (a), AIX teaches compiling data on "processor utilization colleted by individual application for a plurality of concurrently operating applications (page 14-1, Collecting and Report System Data, lines 1-17; page 14-3, Processing Accounting Reports, lines 1-8 through page 14-4, lines 1-10; page 14-4, Daily Reports, lines 1-10; page 14-6).

b.   As to point (b), AIX teaches displaying a second image including specific compiled data identifying at least one of processor time used by an individual application, a number of files accesses made by an individual application, a number of storage requests made by an individual application (page 14-1, Collecting and Report System Data, lines 1-17; page 14-3, Processing Accounting Reports, lines 1-8 through page 14-4, lines 1-10; page 14-4, Daily Reports, lines 1-10; page 14-6, Keyboard Commands, lines 1-31).

c.   As to point (c), AIX teaches a second image including the recited data in response to user selection of a user "selectable item" for selecting display of image data representing processor utilization collated by individual application for a plurality of concurrently operating applications in a first image (page 14-6, Keyboard Commands, line 1-31).

    d. As to point (d), see paragraphs 34 and 35. The rejection was base

       on obviousness, in which one of an ordinary skill in the art at the

       time the invention was made to have improved AIX's system by

       providing a menu navigation architecture wherein a user can look

       and select an item to further display other information instead of

       user have to type in a command for display image. Therefore, it

       would providing more user friendly and flexibility to AIX's system.

    e. As to point (e), AIX teaches teach operational usage (page 14-1,

       Collecting and Reporting System Data, lines 1-17).

41.   Applicant's amendment necessitated the new ground(s) of rejection

presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as

set forth in 37 CFR 1.136(a).

    A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

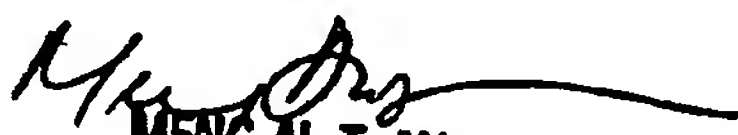the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

42.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer N. To whose telephone number is (571) 272-7212. The examiner can normally be reached on M-T 7AM- 4:30 PM, F 7AM- 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

<div style="text-align:right">

Jennifer N To
Examiner
Art Unit 2195

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MENG-AI T. AN
SUPERVISORY PATENT EXAMINER